IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 234/2002
(Bhanwar Lal & Ors. V/s State of Rajasthan & anr.)

Date of Order : 30/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. N.S.Acharya, for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 21.2.2002 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Bikaner (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 09.12.1998 passed by Additional Chief Judicial Magistrate No.2, Bikaner (for short 'the trial court' hereinafter) taking cognizance of the offences under Sections 498-A and 406 IPC and issuing bailable warrant, was dismissed.

I have heard learned counsel for the parties. Perused the orders passed by both the courts below.

On a report lodged by complainant Smt. Sannu, the police investigated the matter and filed challan against Ramdayal husband of the complainant. Before the trial court, the case

against Ramdayal was tried and the complainant appeared herself as PW-5. The other witnesses PW-1 Jethmal, PW-2 Namchand, PW-3 Kesrichand and PW-4 Om Shanker were also examined. Neither complainant nor PW-4 Om Shanker father of the complainant, as also the other relatives of the complainant, supported the prosecution case and all the prosecution witnesses produced in the criminal case against Ramdayal arising out of the same occurrence have turned hostile and therefore, by judgment dated 01.10.2004 in Criminal Case No.614/03, the trial court acquitted the accused Ramdayal. Learned counsel for the petitioners submits that after the institution of the case, the parties have compromised the matter and therefore, even the complainant did not support the case.

I have carefully gone through the statement of PW-5 Sannu, the complainant recorded by the trial court on 24.9.2004 wherein she has stated that there was some dispute with her husband and therefore, in the heat of passion she has lodged the case against her husband. However, she categorically stated that she was neither subjected to cruelty nor any demand of dowry was made from her.

Keeping in view the fact that the complainant herself did not support the prosecution case, even against her husband she has not made any statement, the other witnesses also not made any statement regarding harassment or demand of dowry

by the present petitioners as also criminal breach of trust, in the circumstances, therefore, to allow the order impugned would be nothing but abuse of process of the Court.

In the result, the petition is allowed. The order impugned dated 09.12.1998 passed by the trial court and order dated 21.2.2002 passed by the revisional court affirming the order of the trial court, are set aside. The proceeding against the present petitioners stands quashed.

(H.R.PANWAR),J.

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